

1 STATE OF ALASKA
2 DEPARTMENT OF COMMERCE, COMMUNITY, AND ECONOMIC DEVELOPMENT
3 DIVISION OF CORPORATIONS, BUSINESS, AND PROFESSIONAL LICENSING
4

5 Minutes of the meeting on
6 March 15, 2021
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8 These are DRAFT minutes prepared by the staff of the Division of Corporation, Business, and
9 Professional Licensing. These minutes have not been approved by the Board.

10 By authority of AS 08.01.070(2) and AS 08.36.040 and in compliance with the provision of Article 6 of AS
11 44.62, a meeting of the Board of Dental Examiners was held March 15, 2021, via Zoom
12 Videoconferencing.

13 *On record at 9:00 AM*

14 The meeting was called to order by Dr. Nielson at 9:00 AM.

15 **Agenda Item 1 – Roll Call**

16 Board members present, constituting a quorum, were:

17 Dr. Greg Johnson
18 Ms. Christina Hansen
19 Dr. Dominic Wenzell
20 Dr. David Nielson – Board President
21 Dr. Jesse Hronkin
22 Mr. Brad Heaston – *joined 10:47 AM*
23 Ms. Brittany Dschaak

24 Board members absent:

25 Dr. Jon Woller
26 Dr. Kelly Lucas
27

28 In attendance from the Division of Corporations, Business and Professional Licensing, Department of
29 Commerce, Community and Economic Development were:

30 Abby O'Brien – Licensing Examiner
31 Joe Bonnell – Records and Licensing Supervisor
32 Melissa Dumas – Administrative Officer -*Joined 9:35 AM*
33 Lisa Sherrell – PDMP Manager – *Joined 10:30 AM*
34 Jasmin Bautista – Investigator – *Joined 9:22 AM*
35 Karina Medina – Investigator – *Joined 9:26 AM*
36

37 Members of the Public in attendance:

38 Dr. David Logan
39 Dr. Vivian Lee
40 Dr. Anthony Zeibert - *Joined at 2:10 PM*
41
42

Dr. Nielson welcomed the incoming board members to their first meeting and thanked them for their time. Before proceeding, Dr. Nielson recognized that one of the new board members, Ms. Hansen, works directly under another board member, Dr. Woller. Dr. Nielson asked for a statement from Ms. Hansen saying that her employment from Dr. Woller would not affect her board decisions. Ms. Hansen affirmed this statement.

Agenda Item 2 - Review/Approve Agenda – 9:06 AM

Dr. Nielson presented the following amendments to the agenda: Adding a section about new PREP Act rules allowing licensees to perform COVID vaccinations; Adding a section to Old Business to discuss the ongoing process of moving responsibility of Radiological Equipment Registration to DHSS and former SB157; and asking if any public comments had been pre-registered. Ms. O'Brien had no pre-registered comments, so Dr. Nielson moved to accept the agenda with amendments.

On a motion duly made by Dr. Wenzell, seconded by Dr. Hronkin, and with unanimous consent, it was RESOLVED that the Board accept the agenda for the meeting as amended.

Agenda Item 3 - Review/Approve Minutes – 9:10 AM

For the October 16 minutes, Dr. Wenzell requested to change line 92 to add the word “not” before “...getting a fair breakdown”. Dr. Nielson noted that his name was spelled incorrectly. For the December 4 minutes, Dr. Nielson noted that his name was spelled incorrectly. Ms. O'Brien stated that she would make the necessary adjustments to both sets of minutes.

On a motion duly made by Dr. Wenzell, seconded by Dr. Hronkin, and with unanimous consent, it was RESOLVED that the Board accept both board minutes as amended. 9:14 AM

As the board was ahead of schedule, Dr. Nielson provided an introduction to sections 28.951(e)(f) and 28.940(b)(8)(c) in the Dental Statutes and regulations. He suggested that a change might be in order, and the Board would eventually need to review and update these regulations as necessary.

Ms. Dschaak asked if Board Guidance set forth in November of 2020 was still applicable. Dr. Nielson replied that the Board's recommendations were still in effect. He stated that the recommendations could be updated, and that he would ask Dr. Woller to evaluate and adjust them.

Agenda Item 4 – Public Comment – 9:24 AM

Dr. Nielson moved Public Comment forward while the board was waiting for the Investigations Team. He asked if there were any statements or questions. Dr. Logan asked for clarification or any new information regarding COVID testing and vaccination to present to licensees. Dr. Nielson replied that they would need to contact the CDC for protocol review and recommendations.

Agenda Item 5 – Investigations Report – 9:27 AM

Ms. Bautista began the Investigations Report, presenting cases back to 2017, and stating that some licensees had multiple cases open, with multiple dates.

Dr. Wenzell asked how many cases have been started in 2021, and how many were open and active. He also asked when the Investigations Department anticipated resolutions to the cases that were dated back to 2017. Ms. Bautista replied that to determine actions that were taken in the older cases, that the

court docket needs to be pulled, and that all court dates and processes had been affected due to COVID. Dr. Nielson asked if attorney's fees and litigation fees were billed to the board, and Ms. Bautista replied that they were.

On a motion duly made by Ms. Dschaak and seconded by Dr. Nielson, it was MOVED that the Alaska State Board of Dental Examiners enter into executive session in accordance with AS 44.62.310 (c), and Alaska Constitutional Right to Privacy Provisions, for the purpose of discussing matters which by law, municipal charter, ordinance are required to be confidential, with all board staff to remain during the session.

Off Record at 9:37 AM

On Record at 9:59 AM

On a motion duly made by Dr. Nielson, seconded by Dr. Wenzell, and with unanimous consent, it was RESOLVED that the Board adopt modifications to the consent agreement for Case #2019-001427 as requested by the respondent. 10:00 AM

Agenda Item 6 – Division Update - 10:02 AM

Dr. Wenzell left at 10:04 AM and returned at 10:07 AM, but the board still maintained quorum.

Ms. Dumas provided an introduction to the Dental Program's revenues and expenditures for the Second Quarter using the three previous bienniums for comparison. She also outlined the cost of Investigations for the board. Dr. Wenzell asked for clarification of Division timeline as to when indirect costs were calculated. Ms. Dumas replied that the numbers were calculated beforehand and were up to date, explaining that indirect costs are charged after year end, and not on a quarterly basis. She also stated that the numbers shown reflect the removal of perpetual license types and the subsequent costs had been adjusted.

Ms. Dumas introduced SB68 and explained that the Division requested money for programs in deficit that couldn't increase their fees for this renewal period. She said that the Dental board falls under this category. She stated that this is an appropriation not a loan. Ms. Dumas said that the Division had sort of "savings account" in the general fund that is distributed when needed. She added that the Dental Programs new fees won't take effect until after this renewal period closes. She stated that the Division will do another fee analysis after the renewal period closes, and that the Division has taken the Board's suggestions into consideration regarding review of indirect expenses.

Ms. Dumas suggested that the Board create a letter of support for SB68. Dr. Nielson volunteered to write one and add it to OnBoard for a vote of approval.

Agenda Item 7 – PDMP Report – 10:30 AM

Ms. Sherrell informed the board that the New Appriss contract had been secured. Now, licensees can email each other through the database and communicate and exchange information within the system. DEA and AWARE Registration were reviewed, and Ms. Sherrell offered an opportunity for education for the program's licensees after renewals are completed. She affirmed that direct dispensers required to report daily and recommended that the board needs to make sure providers know they cannot prescribe before being registered with PDMP. Ms. Sherrell discussed previous actions used to disseminate information to licensees, including town hall type meetings, and making sure a penalty

matrix is in place to convey the seriousness of infractions. Dr. Wenzell asked if the Dental Board could see the letter previously sent by the Pharmacy Board and adjust it to the Dental program's specific needs. Ms. Sherrell said yes and would send a copy of the letter to Ms. O'Brien.

Ms. Sherrell added that the PDMP will send out questionnaire again to licensees for data analysis on how licensees are using the program. She will try to put together videos or a presentation with the information gathered. Dr. Nielson asked if a letter from board and ADS would help reach more licensees. Dr. Logan agreed, and said the letter would act as something the ADS can reference. He then asked if the 72-hour surgery exemption had been recorded. Ms. Sherrell replied that surgical exemptions are already considered in data.

Dr. Johnson stated that the board needs to better define terms and purpose for the PDMP program to get info for licensees, or progress cannot be made in ensuring compliance. Dr. Logan agreed to help spread info in newsletter from the ADS. Ms. Sherrell offered to write an article for newsletter and will get it prepared and send to Ms. O'Brien to present to Board.

Dr. Wenzell asked about difficulties during renewal with creating a payment tab for the PDMP renewal fee and a lag between renewal times. Ms. O'Brien and Mr. Bonnell explained that the PDMP and Dental licenses are separate registrations in the system and are billed separately, and that a lag occurs because each license has to be checked manually.

Dr. Nielson moved for a 15-minute break before continuing with the agenda.

Off record at 11:13 AM

On Record at 11:24 AM

Agenda Item 8 – Old Business – 11:25 AM

Dr. Nielson reviewed moving Radiological Equipment to DHSS and SB157 and asked if there was any sort of status report. Mr. Bonnell replied that there were no updates from the Division. Dr. Logan stated that he did ask the ADS's lobbyist to reach out, but it was a question of finding a spot in the legislative schedule and determining its importance. Dr. Nielson asked if a letter of support would help the ADS to advance the bill's priority. Dr. Logan responded that the best course of action is to have a letter ready to be submitted to the legislature so that it could help bring weight to the processes. Dr. Johnson asked if the board could write a letter and send it directly to the Governor. Mr. Bonnell replied that if an existing statement is ready, it can be added to the bill analysis for the Division when the bill gets dropped. Dr. Nielson agreed to draft a letter and add it to OnBoard.

Dr. Nielson then moved the board to take care of New Business items in the time before the scheduled break for lunch.

Agenda Item 9 – New Business – 11:31 AM

Ms. O'Brien offered to establish a schedule for uploading ballots to OnBoard to reduce the number of missed votes. The board confirmed that this would help to expedite the licensure process and assist with establishing everyone's voting schedule, so Ms. O'Brien would start the procedure with her next batch of applicants.

Dr. Wenzell presented a disciplinary matrix from the State of Washington. He was asked by Ms. Bautista to help develop a comparable matrix for the State of Alaska. He stated that the Investigations Department wants to establish a system of fines that is high enough to be punitive, yet not so high that a licensee appeals the decision. Dr. Wenzell offered to create a fine schedule and add it to the existing chart, so that the Investigations Team would have disciplinary framework for violations of conduct by licensees. Dr. Nielson asked if the board had authority to create the matrix. Mr. Bonnell stated that if the board approved the matrix, then a regulation change would not be necessary. Dr. Johnson recommended that Dr. Wenzell include Ms. Bautista when determining the appropriate size of the fines to be added, to reduce their appealability.

After finishing the New Business Items, the Board adjourned for lunch.

Off record at 11:51 AM

On Record at 1:00 PM

Agenda Item 10 – Regulations Update – 1:01 PM

Dr. Nielson introduced SB86 and HB15. He reintroduced a letter that had addressed concerns issuance of temporary licenses. He asked if the board has the authority to issue temporary licenses. Mr. Bonnell replied that discussions between himself, Ms. O'Brien and the Regulations staff regarding the intent of the board with issuing temporary licenses had occurred. Mr. Bonnell said that these bills passing would allow the board to determine the standard by which licenses can be issued. He stated that the bills must pass first to grant the board the authority to do so. Mr. Bonnell added that the current Dental temporary license for incapacitated dentists would be removed and replaced with the new temporary permit when the bills pass. He added that the board could prepare questions for the Division and hold an emergency meeting on one topic.

Dr. Nielson introduced 12 AAC 28.940 (b)(8)(c). He explained the various pathways to licensure. He proposed changing the regulation requirement from a 2-year GPR to a 1-year GPR, thus allowing an applicant to bypass the regional exam when applying for a specialty license. He cited other states using residencies as an exam equivalent for his reasoning. Dr. Wenzell concurred, stating that as long as the regulation leaves in "CODA Accredited (non-foreign)". Ms. Hansen and Dr. Johnson agreed.

Dr. Nielson then introduced 12 AAC 28.951 (c)(2) regarding exam equivalency, and section (e) which provided a list of criteria that must be met. Regarding exams, Dr. Nielson stated that the board had never compared an application against the list in section (e) when determining equivalency. He stated that removing subsections (e), (f), and (h) would be appropriate if an applicant's regional examination is performed within the United States and is generally equivalent.

Dr. Johnson concurred, noting that having regulations that the board doesn't use could potentially be harmful to the board. Dr. Nielson asked if the board could make a motion and wait for the temporary license legislature to go through. Mr. Bonnell replied yes, and that the board should put together questions for Ms. O'Brien to present to the Regulations team. He said they would then review the questions and determine whether the board could hold a special meeting to adjust the regulation changes as needed.

On a motion duly made by Dr. Nielson, seconded by Dr. Wenzell, and with unanimous consent, it was RESOLVED that the Board amend 12 AAC 28.940 (b)(8)(c) from 2-Year to 1-Year.

On a motion duly made by Dr. Nielson, seconded by Dr. Wenzell, and with unanimous consent, it was RESOLVED that the Board amend 12 AAC 28.951 by striking (e), (f), and (h) and by renumbering as necessary. 1:27 PM

Dr. Nielson introduced a case where an applicant asked to sit in on a WREB exam with a letter of support from the military serving as verification of her credentials. The board had previously recommended that the applicant take the WREB exam to secure her Local Anesthesia certification. Dr. Nielson noted that WREB has much of the same criteria as the state. He continued that even if military signs off on the applicant's abilities and the board recommends the applicant to take the exam, WREB still has requirements that still must be met. Dr. Nielson asked Ms. O'Brien to list the criteria for the applicant so that she knows what requirements are still needed. Ms. O'Brien offered to forward the information from WREB to the applicant and let her know of the decision.

Dr. Nielson then introduced a previous letter of support the board had written in favor of HB127 on March 9 of 2020. He asked permission to re-write the letter to include information and dates pertinent to HB111 and to re-present the letter to the Division.

On a motion duly made by Dr. Johnson, seconded by Dr. Hronkin, and with unanimous consent, it was RESOLVED that Dr. Nielson amend the letter of support dated March 9, 2020 and make it current with reference to HB111. 1:41 PM

Dr. Nielson introduced letters regarding the recommendation of HSAT tests by dentists, and the concerns brought forth by the American Academy of Sleep Medicine. He stated that the Board had addressed the ability to recommend HSATs at the December 2020 meeting, and that consensus was that dentists were able to recommend the tests, as long as a licensed sleep physician interpreted the results and developed the patient treatment plan. Dr. Wenzell stated that he had been in contact with Dr. Easley, a dentist and member of AASM, who offered to come present on sleep apnea to the board should they ask. Dr. Wenzell thought that Dr. Ramar, who sent the email and letter from AASM, might want a position statement from the board. He added that maybe Dr. Ramar could be under the impression that dentists in Alaska are interpreting the results of the HSATs that are being recommended, which the board does not approve. Dr. Wenzell agreed to write a position statement to add to OnBoard for the Board to review and then send to AASM. Dr. Johnson conferred, and said that this is the kind of collaborative process and screening that allows for better patient care.

Agenda Item 11 – New Business – 2:15 PM

Dr. Nielson introduced licensing compacts while waiting for Dr. Zeibert to sign on. He said that he received an email earlier today stating that the Department of Defense had granted approval to the dental profession to begin creation of an interstate licensing compact. Dr. Nielson stated that this conversation came about as the Nursing board has started the process for their own interstate compact, and that the Dental Board will write a letter of support for them. He then moved for a quick break before Dr. Zeibert started his presentation.

Off record at 1:54 PM

On Record at 2:12 PM

Dr. Zeibert began his presentation by acknowledging the National Center for Interstate Compacts and the Council of State Governments. He then defined an interstate compact as an agreement between

states as a means to provide “substantive sameness”. He also defined it as a means of cooperatively solving common concerns when regarding Occupational and Professional Licensure. He stated that this process was begun, under concern of a federally mandated solution, as a means for regulating consumer prices driven by the number of licensed occupations. After listing the references he cited, Dr. Zeibert presented some of the benefits of a compact, such as agreement on uniform licensure requirements, formation of information system or database, and streamlined background checks. Dr. Zeibert explained that a compact is supra-state, but sub-federal in its authority, and is opt-in, but not opt-out. He then outlined how state licensure processes remain in place, and licensees voluntarily become part of the compact. Dr. Zeibert then said that as of this morning, the field of dentistry had been awarded the grant to start the process of creating a dental compact. He estimated the timeline of commencement of the active compact to be in 2022-2023.

Dr. Nielson inquired to disciplinary measures of a state. Dr. Zeibert replied that any state in the compact may open a case, and the licensee is held to disciplinary guidelines of his or her home licensure state. He added that once a case is open against a licensee, the record is flagged in the database, so all states are made aware of any license actions. Dr. Nielson asked about the operating costs of the compact. Dr. Zeibert replied that operating costs and database maintenance is directly tied to an individual’s state licensing fees and costs. He added that dentists and dental hygienists are treated as a single entity by the Department of Defense, as they are recognized as a synergistic relationship. At the conclusion of his presentation, Dr. Zeibert offered to send his PowerPoint to Ms. O’Brien as a resource for the board.

Dr. Nielson reviewed the task list for board members. He said that he would write various letters: Support for SB68, support for the Nursing Board and SB67, Support for dental hygienists and HB111, a letter to the Division regarding radiological equipment, and an informational letter regarding the PDMP using Ms. Sherrell’s template. He asked Ms. Hansen to contact Dr. Woller to review and update the COVID guidelines for licensees. Ms. Hansen said she would see Dr. Woller the following day and complete his request. Dr. Wenzell was going to develop a penalty matrix for Professional Misconduct using the Washington Statutes previously presented. Ms. O’Brien agreed to set the dates for the next quarterly meetings in May, August, and December.

On a motion entertained by Dr. Nielson and seconded by Dr. Johnson, and with unanimous consent, the Board moved to adjourn at 2:50 PM.

Off Record at 2:51 PM

Respectfully Submitted:

Abby O’Brien
Occupational Licensing Examiner

Approved:

David Nielson, DDS, President
Date: _____